HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 730 of 2007

Between:

G. Mallaiah

… Appellant

And

The Government of Andhra Pradesh
Rep. by its Secretary, Revenue Department,
Hyderabad & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri B. Vijaysen Reddy

September 13, 2007

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 18.07.2007 passed by the learned Single Judge in W.P.M.P.No.17576 of 2007 in Writ Petition No. 14000 of 2007, whereby he declined the appellant's prayer for issue of a direction to the respondents to issue 'No Objection Certificate'.

We have heard Shri B. Vijaysen Reddy and perused the record. In the writ petition filed by him, which is pending adjudication before the learned Single Judge, the appellant has made the following substantive prayer:

> " It is therefore prayed that this Hon'ble Court may be pleased to issue a writ or any appropriate writ or writs or direction/s more

particularly in the nature of writ of mandamus declaring the memo dt. 22.6.2007 bearing No: N1/F1/9341/04 issued by the 2nd respondent to the extent of refusal to issue NOC as illegal, arbitrary and consequently direct the 2nd respondent to issue NOC to the petitioner in respect of property admeasuring 1000 sq. mts. in Sy.No. 296/1 and 373 situated at Gudimalkapur, Hyderabad and pleased to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case."

In W.P.M.P.No.17576 of 2007, he prayed for issue of a direction to the respondents to issue 'No Objection Certificate'. It is thus evident that the prayer made in the miscellaneous petition is substantially similar to the one made in the main petition. Therefore, the learned Single Judge did not commit any error by declining the appellant's prayer for interim relief. If the miscellaneous petition had been allowed by the learned Single Judge, nothing would have survived for adjudication in the main petition.

In view of the above, we hold that the discretion exercised by the learned Single Judge not to entertain the appellant's prayer for interim relief does not suffer from any legal infirmity.

With the above observation, the appeal is dismissed. However, liberty is given to the appellant to apply for early hearing of the writ petition. We hope and trust that the learned Single Judge will consider the request, if any made sympathetically.

As a sequel to dismissal of the writ appeal, W.A.M.P.No. 1465 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

September 13, 2007

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